

West Virginia Department of Health and Human Resources

# Adult Family Care-Request to Provide

Bureau for Social Services

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**Section 1 Introduction**

**1.1 Introduction and Overview**

Adult Family Care, AFC, Homes are placement settings for adults that provide support, protection and security in a family setting. This may be an appropriate option for individuals who are no longer able to safely remain in their own homes due to physical, cognitive, and/or emotional deficits. Although an individual may be experiencing deficits in one or more of these domains, the deficits are not significant enough to warrant the level of care provided in an assisted living facility or nursing home. The AFC provider must be certified by the Department of Health and Human Resources, Bureau for Social Services. Once certified, the provider may provide care for up to three (3) adults. The provider receives payment for the care provided. This payment may come from the client placed in the home, the Department, or a combination of these two (2) sources.

An Assisted Living Facility is a residence or place of accommodation for four or more residents with the advertised or known purpose of providing personal assistance, supervision, or both, to individuals who are dependent upon the services due to physical or mental impairment. Residents may require nursing care that is not greater than limited and intermittent nursing care. See W. Va. Code §16-5D-1 *et seq.*, for the statutory definition of Assisted Living Facility.

There are two assisted living home classifications: The small, assisted living residence consisting of a bed capacity of four (4) to sixteen (16) and a large, assisted living residence consisting of a bed capacity of seventeen (17) or more. All Assisted Living Facility classifications are licensed by the Office of Health Facility Licensure & Certification ([OHFLAC](#)).

**1.2 Recruitment of Adult Family Care Providers**

With the ever-increasing need for supportive living placement options for vulnerable adults, it is important that the Department continue with recruitment efforts to locate new AFC homes. This is one of the primary responsibilities of the AFC Homefinder.

The AFC Homefinding staff should follow the chain of command for approval of recruitment activities and coordinate efforts with the Department’s Office of Communications. All written material (brochures, news releases, posters, etc.) must be approved by the Office of Communications prior to being utilized for recruitment or distribution.

### 1.3 Definitions

<p><b>Abuse:</b> Infliction of or threat to inflict physical pain or injury on or the imprisonment of any incapacitated adult or resident of a nursing home or other residential facility</p>	<p><a href="#">W.Va. Code §9-6-1 and §61-2-29</a></p>
<p><b>Adult Emergency Shelter Care Home (ESC):</b> A home that is available on a short-term emergency basis for residential care type clients for whom no other appropriate alternatives currently exist, agreeing to accept placement on a twenty-four (24) hour basis.</p>	
<p><b>Adult Emergency Shelter Care (ESC) Provider:</b> An individual or family unit that has been certified by the Department of Health and Human Resources to provide support, supervision and assistance to adults placed in their home at any time on short notice.</p>	
<p><b>Adult Family Care (AFC) Home:</b> A placement setting within a family unit that provides support, protection and security for up to three individuals over the age of eighteen (18).</p>	
<p><b>Adult Family Care (AFC) Provider:</b> An individual or family unit that has been certified by the Department of Health and Human Resources to provide support, supervision and assistance to adults placed in their home for which they receive payment.</p>	
<p><b>Assisted Living Facility:</b> Any living facility, residence or place of accommodation available for four (4) or more residents, which is advertised, offered, maintained or operated by the ownership or management, for the express or implied purpose of having personal assistance or supervision, or both, provided to any residents therein who are dependent upon the services of others by reason of physical or mental impairment and who may also require nursing care at a level that is not greater than limited and intermittent nursing care.</p>	
<p><b>Cognitive Deficit:</b> Impairment of an individual’s thought processes.</p>	
<p><b>Electronic Funds Transfer (EFT):</b> An electronic transfer of provider payment commonly known as Direct Deposit, into the provider’s designated bank account.</p>	
<p><b>Emancipated Minor:</b> A child over the age of sixteen (16) who has been emancipated by 1) Order of the court based on a determination that the child can provide for their physical well-being and has the ability to make decisions for themselves or 2) Marriage of the child. An emancipated minor has all privileges, rights and duties of an adult including the right to contract.</p>	<p><a href="#">W.Va. Code §49-4-115.</a></p>
<p><b>Emergency or Emergency Situation:</b> A situation or set of circumstances which present a substantial and immediate risk of death or serious injury to an incapacitated adult.</p>	
<p><b>FACTS:</b> Acronym for the Family and Children’s Tracking System and is the automated client information system used by the West Virginia Department of Health and Human Resources, Bureau for Social Services.</p>	

<b>FACTS Plus:</b> The Family and Children’s Tracking System Provider Look-Up and Update System which allows registered providers to view details of their payments and individuals served on a secured site. Information is available twenty-four (24) hours a day.	
<b>Incapacitated Adult:</b> Any person, by means of physical, mental or other information is unable to physically carry on the daily activities of life necessary to sustaining life and reasonable health. (NOTE: Incompetence of an adult is determined by a legal proceeding and is not the same as a determination of incapacity).	
<b>Legal Representative:</b> A person lawfully invested with the power and charged with the duty of taking care of another person or with managing the property and rights of another person, including, but not limited to, a guardian, conservator, medical power of attorney, trustee, or other duly appointed person.	
<b>Neglect:</b> Means A) The unreasonable failure by a caregiver to provide the care necessary to assure the physical safety or health of an incapacitated adult; or B) the unlawful expenditure or willful dissipation of the funds or other assets owned or paid to or for the benefit of an incapacitated adult or facility resident.	
<b>Physical Deficit:</b> Impairment of an individual’s physical abilities.	

## Section 2 Intake

### 2.1 Eligibility Criteria

In order for a prospective applicant to be approved as an AFC Provider they must meet all the following criteria:

- Twenty-One (21) years of age or older
- Submit a completed application packet:
- Meet all applicable standards for this type of setting; and,
- Be a US citizen and WV Resident.

#### ***Application Process***

When an inquiry is received from a person expressing interest in becoming a provider, the Home-finding Specialist will mail a packet of information about the AFC Program to the prospective provider.

The application packet is to include:

- Application
- Physician’s Letter (applicant);
- Two Personal Reference Letters
- Credit Reference Letter
- Fire Safety Checklist
- Provider Tax Information Reporting Form (W-9); and,
- Application for EFT and FACTS Plus.

Potential Provider Inquiry Requirements:

- The worker receiving the initial inquiry about AFC will complete the Request to Provide Intake
- The Home-Finding supervisor will determine if the individual is a new inquiry, a re-application from a voluntary closed home, or a re-application from an involuntary closed home.

- If the AFC home was involuntarily closed for failure to meet general Adult Residential Services (ARS) Requirements, the Home-Finding supervisor should discuss with the AS Consultant whether the request to provide should be refused or permitted to proceed with the application process.
- If the AFC home was closed involuntarily, for a reason other than failure to meet one of the general ARS requirements, the Home-Finding Supervisor will refuse the request to provide. IF the request to provide is denied the applicant must be informed of the grievance process.
- If the former ARS home was voluntarily closed for less than two (2) years, it may be reopened by the previous ARS provider submitting a letter requesting their home be re-opened. The AFC Provider must have a current annual review and receive the most recent policy and procedures. The home-finding supervisor will assign the Request to Provide to a home-finding specialist within five (5) business days.
- If the former AFC Provider was voluntarily closed for more than two (2) years, the Home-finding Supervisor will assign the Request to Provide to a home-finding Specialist within five (5) business days.
- The completed application packet must be returned within thirty (30) days, or the intake is to be closed.

## **Section 3 Assessment**

### **3.1 Introduction**

The Assessment is the process the homefinder goes through to determine if the prospective provider, household members and the provider's home meet all the required criteria to be an AFC provider. A thorough evaluation of the home and family must be completed within ninety (90) days after receipt of the application.

### **3.2 Initial Interview**

Upon receipt of the completed application, the homefinder will arrange an appointment to meet with the applicant. This initial interview is to be conducted in the applicant's home with only the applicant, the applicant's spouse, and the homefinder. This interview shall include an intense discussion of all the items contained in the outline for the AFC home Study Summary and the standards for AFC homes as outlined in his policy. The homefinder must make a thorough inspection of the home and its grounds during this visit. This inspection shall include all areas that are required for completion of the Annual Fire and Safety Review and all physical standards for the AFC home.

It is the homefinders responsibility to discuss with the prospective provider:

- Obligations in assuming care, supervisor and protection of adults.
- Agency standards and requirements for AFC providers
- Agency expectations for the provider and provider for the agency.
- Due to the amount of information to be covered, it may be necessary to complete the interview in more than one (1) visit.

### **3.3 Report Screening**

Upon completion of the initial interview with the applicant and inspection of the physical facilities of the home, the homefinder will make arrangements to interview all other household members individually. AFC involves all household members and it is essential to evaluate all household members.

A thorough description of each household member is required including interest, attitudes, occupation, temperament, physical/mental health, relationships with other household members and attitude about providing AFC.

If, on the Application to Provide AFC, it is indicated that someone in the immediate family has ever been arrested for or ever been involved in any criminal activities, this must be explored thoroughly. The homefinder must determine what the arrest was for and what criminal activities were involved.

### **3.4 Record Check**

The homefinder must complete a record check in FACTS and any existing paper records for every household member; excluding AFC Clients to ensure there is no current/prior CPS/APS involvement. If any of the adult household members, who are or would be responsible for providing care, had prior employment in a nursing facility, the homefinder must also check the [Nurse Aide Abuse Registry](#) by contacting or checking the [OHFLAC](#) website.

If any household member is listed on the Nurse Aide Abuse Registry or has a history of substantiated APS/CPS; the application to provide care shall be denied.

### **3.5 Criminal Identification Bureau Check (CIB)**

A CIB check shall be completed on all adult members of the household and all individuals providing care to AFC clients for more than two (2) hours per week including caregivers, adult household members, private pay clients placed in the home prior to receipt of the request to provide AFC, regular volunteers, substitutes, respite providers and transportation workers.

Providers are required to notify the agency within twenty-four (24) hours when the household composition changes, (i.e., new adult household members are added (excluding AFC clients) or when any household member has been charged and/or convicted of a criminal offense. The CIB check shall be submitted on all new adult household members within five (5) working days of notification by the provider.

CIB and National Crime Information Center (NCIC) checks must be made on new applications prior to final approval of the home. When a CIB and/or NCIC report reveals convictions for any household member, they are not to be approved, employed, utilized and/or considered for a waiver when the following apply:

- Conviction of a felony; including, but not limited to murder/homicide, felonious physical assault, sexual offenses and/or felonious battery
- Child/adult abuse or neglect, crimes with the exploitation of a child or incapacitated adult, domestic battery or domestic assault, felony arson, felony or misdemeanor crime or incapacitated adult which causes harm, felony drug related offenses within the last ten (10) years, hate crimes, neglect or abuse by a caregiver, pornography crimes involving children or incapacitated adults, including but not limited to, the use of minors in filmed sexually explicit conduct or sending distributing, exhibiting, possessing, displaying or transporting material by parent, guardian, or custodian, depicting a child engaged in sexually explicit conduct, purchase or sale of a child, abduction, kidnapping, sexual offenses
- Are on parole or probation for a felony conviction

- Any applicant/household member or anyone that provides any type of service to AFC clients, with two (2) or more misdemeanors shall not be approved, employed or utilized. An applicant/household member or anyone that provides any type of service to AFC clients, shall not be approved, employed nor utilized if he/she fails to report convictions to the Department or agency.

### **3.6 References**

- Three (3) reference letters are required and are to be sent to all references provided by the prospective provider.
- Two (2) personal references must be completed; one of which must not be related to the applicant.
- One (1) credit reference, to be completed by a current utility provider or bank/lending institution.
- The homefinder must conduct a face-to-face- interview with at least one (1) personal reference.

**Note:** If the homefinder feels the need for additional references to determine if an applicant qualifies to be an AFC provider, it is permissible for the homefinder to request additional references. It is not permissible to ask for additional references to replace references that may have given negative feedback. The only time additional references may replace the original references are when the original references refuse to respond.

### **3.7 Group Interview**

A group interview is required as the final step in the home study process. All members of the applicant's household must be present for this final interview. This will provide the homefinder with the opportunity to observe interactions between family members and to discuss questions, problems, and/r assurances that the homefinder has in relation to approval of the home. Improvement and/or changes in the home that are required to bring the home into compliance with agency standards will also be discussed at the time.

### **3.8 Required Medical Statements**

#### ***Designated Provider***

The family member who will be known as the AFC provider must obtain, a statement from a physician, at their own expense, stating they are free of communicable diseases and are physically/mentally able to care for incapacitated adults to the best of the physician's knowledge. It must be dated no greater than ninety (90) days greater than the AFC provider application date; and must be reviewed by homefinder prior to final certification/approval for the AFC home/provider.

If the homefinder believes it is likely that the home and all household members will meet agency standards and that approval of this home is likely, the homefinder must request a medical statement for all household members aged eighteen (18) and over that may provide any direct care to clients. This statement must also state they are free of communicable diseases and are physical/mentally able to care for incapacitated adults to the best of the physician's knowledge.

If a household member has ever been committed to a mental institution or been treated for severe mental or emotional disturbances, the homefinder must obtain information to determine the nature of that illness and a statement from an attending physician and/or other involved behavioral health

professionals documenting that person's status. The homefinder must consider all characteristics of each household member in determining the family's ability to care for vulnerable adults in their home.

### 3.9 AFC Home Study Summary

The results of the homefinders evaluation of an applicant and all household members must be documented on the AFC Home Study Summary including:

Applicant information: This will include information such as name and demographic information.

- **Residence:** This will include the interior/exterior of the home, the neighborhood and community resources.
- **Arrangements for AFC Residents:** This will include recreational/educational activities for the client, the clients place in the AFC family, the resident's bedroom and furnishings available and home accessibility for the AFC client.
- **Finances and Resources for the Provider:** This will detail the household income for the prospective AFC provider. Also, the employment history for all household members, financial security, resources, property, insurance, and transportation available.
- **Applicants Family:** This section will describe each household member including age, interest, education, social activities, and medical/mental health history. Also, it will explore family relationships, attitudes, and health standards.
- **Reasons for being an AFC/ESC Provider:** This will allow the values provided by the client to be documented along with the observations of the homefinder on how the applicable plans to handle unique issues such as supervision, medical care, transportation, being able to handle/recognize emergencies, issues that may arise and the challenges/satisfactions in caring for incapacitated adults.
- **Ability to Care for Incapacitated Adults:** This will allow the homefinder to determine if the provider has anticipated the issues when providing care.
- **Results of Record Check:** This will allow documentation for a summary of the CIB and other record check results for each member of the household including whether a waiver was justified and/or requested.
- **References:** This will allow a summary of all written references including personal and credit references.

### 3.10 Standards for Selection of AFC Home

In order to safeguard the health, comfort and well-being of clients in AFC, the Department has established certain standards and requirements which must be met before a home will be approved to provide AFC.

#### ***Fire Safety Standards:***

Installation of smoke detectors at the entrance of every bedroom is required and batteries must be replaced every six months. Carbon Monoxide Detectors are required for any home that is not total electric. The home must have at least one (1) portable five (5) lb. or larger fire extinguisher capable of extinguishing all types of fires (ABC certification), located in the kitchen. It is recommended that an additional fire extinguisher be placed near the heating source, particularly if a fireplace or wood burning stove is used as source of heat.

- The provider must develop fire evacuation routes and be sure that clients are aware of escape procedures in the event of an emergency.

- Heat sources such as fireplaces, furnaces, stoves, radiators, water heaters, and other heaters must have safeguards including but not limited to, thermostatic controls, automatic shut off valves, vents, and screens that are functioning.
- Ashes from burning coal or wood must be kept in a metal container clear of wood floors and walls. The exhaust pipes for wood stoves, fireplaces, and coal-burning stoves must be maintained to keep them free of creosote; and,
- Makeshift heating or cooking devices such as charcoal grills, camping stoves, kerosene heaters, etc. which could cause carbon monoxide poisoning or other accidents cannot be used indoors.

### ***Mobile Homes***

If a mobile home is the family residence, it will only be considered for approval if manufactured after 1986 and meets all fire safety standards. It is further recommended that the mobile home be inspected by the fire Department. In addition, all mobile homes must be equipped with push out window frames that are the type that raise and can be used as an emergency exit.

### ***Sanitation Standards***

The sanitation inspection may be completed by the homefinder or a request made that that Local Health Department make the inspection. In those situations where the homefinder feels unable to make the determination, a request would be made to the Local Health Department.

The “Annual Sanitation Review,” must be completed to document the inspection. The form is designed so that it can be used either by the homefinder or by the Local Health Department.

- **Water Supply:** If the water supply is other than a municipal water supply, the water must be approved by the Local Health Department or an approved independent laboratory prior to approval of a prospective provider. If the water is determined to be unsafe, this does not automatically disqualify the home, but appropriate action must be taken to correct these conditions to assure a safe water supply is available for drinking, cooking and bathing. While the water supply typically should not need to be re-tested on a routine schedule, if something should occur that could compromise the water quality, the provider must have the water tested and take actions necessary to ensure a safe source of water. The provider is responsible for payment for any water testing that is needed.
- Toilet and bathing facilities should be in working condition
- Liquid and solid waste disposal shall be disposed of in a sanitary manner into a public sewage system or, into a system approved by the Local Health Department.
- Garbage Disposal should be collected and disposed of in compliance with established requirements of applicable state and local authorities. Garbage containers shall be watertight, rodent proof and have tight-fitting covers.

### ***Health Standards***

The health status of each household member, related to their ability to provide care to adults in their home, shall be assessed by the homefinder. To do so, the homefinder must consider information reported on the Physician’s Statement as well as information obtained during individual/group interviews with household members.

Providers and members of the household must meet the following:

- Providers and all household members shall be free from communicable diseases including TB and Hepatitis
- Providers and all household members shall be free from disabling conditions which render them unable to properly supervise and care for clients.
- The health and physical abilities of the provider must allow quality and protective care to be provided.
- AFC providers or household members shall not have an illness or condition which would have a negative impact on the care of the clients; and,
- AFC providers or household members shall not have exhibited behavior patterns that would be physically harmful or emotionally damaging to clients placed in the home.

### ***Nutritional Standards***

The homefinder must assess the provider's ability to meet the nutritional needs of the adults placed in their home. Providers must be able to comply with the following requirements:

#### **Meal preparation:**

- Diets prescribed by physicians shall be in writing, dated and kept on file and meals carefully planned to adhere to the prescribed diet. Food preferences shall be taken into consideration without sacrificing good nutrition.
- At least three (3) nutritional meals shall be served with no more than fourteen (14) hour spans between the evening meal and breakfast.
- Nutritional between-meal snacks must be available to residents except when conflicting with special diets prescribed by a licensed physician; and,

#### **Food Handling/Sanitation**

- All food shall be stored in a safe and sanitary manner.
- Refrigerators shall be kept clean in proper working condition
- Kitchen floors, walls, sinks, ceilings, light fixtures, storage areas and equipment shall be kept clean and in good repair; and,
- Open Kitchen windows and doors shall be screened and maintained.

### ***Social Standards***

The homefinder must assess the provider's ability to meet the social and supportive needs of clients placed in their home. Providers must be able to comply with all the following:

- The location of a home must be accessible by automobile,
- The atmosphere within the home is to be supportive of the emotional needs of the clients
- The clients must be allowed to dine with other members of the family.
- Utilize the normal facilities of the home, and generally share in the life of the family.
- Appropriate health care services will be utilized when needed.
- An approved AFC shall not accept any private placement without prior approval by the Department
- The number of residents placed in an AFC home shall not exceed three (3);
- Excluding clients, there can be no more than six (6) members in a provider's household. Homes with more than six (6) members will require a policy exception prior to approval.
- Clients shall be encouraged by the family to engage in any activity or function supporting and/or enhancing their physical, mental, emotional and/or spiritual well-being

- Clients will be afforded the opportunity for participation in religious services of their choice; and,
- Telephone services must be available in the home and made reasonably available to the client. Clients will be responsible for the cost of their long-distance calls.

### ***Home and Housekeeping Standards***

#### **Appearance of Home**

- The home shall provide a homelike and comfortable atmosphere and shall be maintained in a clean, hazard free, orderly manner; and,
- The exterior of the home and surrounding yard shall be well-maintained and free of clutter.

#### **Sleeping Facilities**

- A bedroom shall not be used as a common passageway to other rooms.
- More than double occupancy in a single bedroom is not permissible.
- With the exception of a married couple placed in an AFC home, no more than one (1) resident may sleep in the same bed.
- Beds shall have a box springs and clean comfortable mattress
- Bed linens consisting of two sheets, a pillow and a covering shall be provided and must be changed, at least weekly; and a rubber impervious sheet may be used, when necessary.
- Folding cots, portable beds and/or double-decker beds are not permitted.
- Beds shall be placed so that no resident may experience discomfort because of proximity to radiators, heat outlets, air conditioners or by exposure to drafts.
- Closet space shall be available for each client either in the client's bedroom or immediately adjacent to it and have space for storage of clothing and personal belongings.
- Sleeping room for clients shall not be used for any purpose by any other member of the family's household.
- Furniture and accessories shall be in good condition and working order.
- The client is to be encouraged to bring some personal furnishings of their own as space permits and adheres and/or complies with all other AFC Rules and/or Safety Regulations.
- Each bedroom shall have at least one (1) outside window. A chair is also optional; if needed, for the client.
- Each single occupancy bedroom shall have, at a minimum, one hundred (100) square feet of floor space (10x10); and, each double occupancy bedroom shall have, at a minimum, 8 square feet of floor space per occupant, total of 160 square feet.

#### ***Accessibility***

- Clients shall be housed within the provider's residence and have a common entrance.
- Rooms should be easily accessible to the client and not be more than one (1) flight above street level. Although, upstairs bedrooms are not permitted for mentally/physically incapacitated to the point that quick emergency exiting would not be possible.
- The bedroom shall not be entirely below ground level, but if partially below ground level the bedroom must have direct access from the bedroom to the outside, Direct access means that the room has a window/door which is large enough to allow emergency exit to the outside without going through an adjoining room; and,
- Bathroom(s) shall be situated where they are easily accessible to the clients and equipped to meet their needs.

### ***Lighting and Ventilation***

- There shall be sufficient artificial and/or natural light and ventilation available in bathrooms. Ventilation means a window that opens to the outside or an exhaust fan.
- Open windows and doors must be screened; and,
- House must have metered electricity service.

### ***Safety***

- Device/measures necessary to ensure the safety of clients must be used.
- Handrails for stairs.
- Handgrips for tubs, showers and toilets; as necessary
- Nonslip stools and mats
- Nonskid floor surfaces
- Nonskid rugs.

### ***Firearms, Ammunitions and/or Weapons***

All weapons not in use or securely worn must be kept properly stored in a locked container, preferably one made from solid wood or metal. If a glass case is utilized to store firearms, trigger locks must be used on all firearms, ammunition and all other weapons including knives, throwing stars, etc. shall also be stored in a separate locked container. The following are considered weapons: Firearms, air guns, BB guns, hunting slingshots, and any other projectile weapons. All ammunition, arrows or projectiles for these weapons must also be stored in a locked space separate from the weapons. For additional safety guidelines, visit [NRA gun safety rules](#).

### ***Durable Medical***

Equipment prescribed by a physician is to be available and readily accessible to the client prescribed. Determination of what “readily accessible” means is to be based on the type of special equipment and the capabilities and needs of the client.

### ***Care and Welfare Standards***

The homefinder must assess the applicant’s ability to provide necessary care, support and assistance to clients placed in their home. Provider must be able to comply with the following requirements:

#### ***Personal Care/Grooming***

- Clients shall be suitably dressed at all times.
- Assistance must be provided when needed in maintaining personal hygiene and good grooming.
- The client shall be provided with soap, clean towels, clean wash cloths, individual mouthwash cups, personal toothbrushes, and personal denture containers.
- Assistance in laundry including but not limited to washing, drying, and storing of laundry.

#### ***Rights of Clients***

- Client shall not be detained in a home against their will unless they have been determined to be incompetent by a court of law to make decisions concerning their own welfare.
- Physical restraints are not to be used.
- Client shall be permitted the right of rest periods in their beds.

- Visitation will be encouraged to main relationships with family and others and be in accordance with established AFC house rules.
- A client's right to privacy will be respected and a client's correspondence shall not be opened except as authorized by the client or the legal representative.
- No form of physical punishment will be tolerated.
- Adequate seasonal appropriate clothing shall be maintained for each client and,
- The client may use the personal expense allowance to purchase any item(s) they choose unless it conflicts with established house rules or regulations applicable to operation as an AFC home.

### ***Inclusion in the Family***

- Clients shall be encouraged to use all common areas in the home and to take part in social activities within their capacity; and,
- Depending upon the client's physical condition or the advice of the physician, the client will be encouraged to perform certain tasks around the home, such as caring for their room or occasionally assisting with meal preparation (and/or cleanup) as long as the client is not exploited.

### ***Emergency/Special Needs***

- During periods of temporary illness clients may be given more intense assistance with activities of daily living (ADL) by the provider not to exceed six (6) months without an approved policy exception. The intent of providing this additional assistance on a short-term basis is to prevent movement to a higher level of care. Title XIX Medicaid Waiver services for the AFC client is not permitted in the AFC home.
- Home Health Services may be provided on a short-term basis not to exceed ninety (90) days per episode. Services provided in the home by another agency must be in addition care being furnished by the AFC provider, not instead of.
- Hospice care may be provided in the home by a licensed hospice provider, as needed. Services provided in the home by the hospice agency must be in addition to care furnished by the AFC provider, not instead of.
- If the client has special equipment, such as walkers and/or wheelchairs, it shall be made available to them at all times. (If a client placed in the home requires special equipment, the physical structure must be able to accommodate its use); and,
- The provider must have established procedures for obtaining assistance in an emergency and the homefinder must be aware of emergency plans and contact information.

### ***Personal Characteristics of Providers***

- Interested in caring for adults and the ability to recognize the importance of rehabilitative services.
- Free of personal problems which would consistently take priority over the care of clients.
- Must be able to work collaboratively with the homefinder, adult service workers, social service agencies and the client's family and/or friends.
- Willing to consult with the adult service worker and homefinder regarding the client's adjustment to the home and cooperate in maintaining the standards and necessary records.
- Physical, mental and emotional capacity to meet all applicable responsibilities in the care of the client.

- The prospective provider must have adequate financial resources to provide a reasonable standard of living for the immediate family and maintain financial stability for the family. The provider may be required to provide copies of tax returns, check stubs, copies of monthly bills, etc. This means that the provider must have sufficient income to meet all the families' expenses without depending on the AFC supplement or the resources (WV Works, Snap and/or TANF) of the client. Any exception to these requirements must be authorized via an approved policy exception; and,
- The provider must have the ability to understand the ARS Payment agreement and the client's personal expense allowance requirement.

### ***Relative Placements***

AFC payments will not be made to a provider for the care of a spouse.

When considering payment to a relative for provision of AFC care, the following will be considered:

- If the relative has provided these services to the client for any period of time prior to requesting payment, it must be determined why they are requesting payment for these services now.
- The provider must be willing to accept other clients unless the home does not have adequate space to accommodate additional client.
- The degree of burden placed on the provider in furnishing care to the relative in placement will be considered, such as amount of time spent and cost involved. For example, the provider's presence may be required in the home on a twenty-four (24) hour basis.
- If the relative is giving up employment to care for the client, an AFC payment may be necessary to enable the person to continue to provide the service. However, the client's resources and the AFC payment cannot be the only income in the household. If a relative is giving up employment to care for a disabled relative and that relative has been providing the household's sole source of income, an AFC payment cannot be approved without a policy exception. If no recent changes have occurred and the request for payment is being made because the client or relative has only recently become aware of the AFC Program, a social service supplement may be made if it can be demonstrated that the circumstances of burden or hardship have existed for a period of time and that the home meets all standards for AFC homes; and,
- AFC homes shall not be approved to care for more than three (3) adults. Relatives to whom care is provided and private paying residents must be included in this number. The AFC home Study Summary and the annual AFC Approval Letter will reflect how many adults the provider has been approved to care for, and this will be made clear to the provider.

### ***Dual Providers***

In general, providers are discouraged from providing services to more than one program at a time (i.e., Foster Care, Day Care, Specialized Family Care, Private Agencies, AFC, etc.) due to the amount of time and effort each of the programs require. When a person is approved to provide more than one (1) service, the demands placed on providers who serve dual client populations often become excessive, reducing the level of service to all clients and disrupting the provider's household. Therefore, requests to become a dual provider must be given careful consideration. Before a provider may offer dual services, the worker(s) and the supervisor (s) of both programs must evaluate all aspects of the situation to determine the best possible arrangement in regards to the ages, needs and circumstances of the children and adults.

It would be rare for a provider to deliver services to more than one (1) program simultaneously. One example of a situation where approval for a provider to offer dual services. Staffing and joint involvement is also necessary following Foster Care placement, including the need for AFC to be provided in a home other than the Foster Care Home. The service plan must document definite goals, specific tasks and time frames to accomplish the goals. The ultimate goal must be placement in the least restrictive living arrangement that is appropriate to meet the individual's needs.

If it is determined AFC is appropriate, a policy exception must be requested.

A policy exception requires the following:

- The client wishes to remain in the home.
- The provider wishes to continue to provide services.
- The client meets all AFC eligibility requirements; and,
- The provider meets all applicable standards to be an AFC provider.

The client, provider, worker from the CPS and/or Youth Services, Adult Service worker, and the homefinder must have discussed this thoroughly and deemed this to be the best plan for the client. A policy exception must be requested and approved by the Regional Administration. The exception request must have documentation showing why this person is not capable of independent living, steps taken to prepare the person for independent living and how removal from this home would be detrimental to the clients' well-being. If the request is approved, final approval of a request to become a dual provider must be granted by policy exception. If the AFC provider is certified as a Title XIX Waiver provider or employed as a Personal Care Provider, the provider must decide if they want to continue being a provider with that program or if they want to be a provider through the AFC Program. If the client receives services from Title XIX Waiver program, the client is not eligible for a Supplemental AFC payment and the client's AFC case may be closed.

If the decision is to continue as a provider with the Title XIX Waiver program or as a Personal Care provider, the AFC provider record must be closed. If the client receives services from any other agency that provides supervision or care for the client, this must be evaluated to determine if the client remains eligible to receive a supplemental payment from DHHR or remains eligible for AFC placement. An AFC provider cannot accept care for an Aged and Disabled Waiver client as the recipient requires more advanced care than AFC provider can provide.

### **3.11 Liability Insurance**

The Department and the State Board of Risk and Insurance Management have implemented an agreement to provide liability and property damage insurance protection for AFC providers. The insurance afforded AFC providers by this program is not intended to replace any of their existing property or liability insurance (comprehensive personal liability insurance, homeowner's insurance, etc.), as only acts of AFC clients are covered. Instead, it seeks to reduce the cost of the provider's existing coverage and ensure quality care for disadvantaged adults. This insurance protection does not provide coverage for any injury or property damage resulting from a client's operation of the provider's automobile or their licensed motor vehicle. The provider must not permit a client to operate any licensed motor vehicle that is not owned by the client. The liability and property insurance protection coverage include the following through the State Board of Risk Management.

### **General Liability Insurance**

This insurance protects the Department, including its employees and the AFC providers in the event of negligent acts of the client that cause injury or damage to persons other than the AFC provider. The limits of liability are one million per each occurrence. There is no deductible required for general liability claims.

### **Property Insurance**

The insurance protects the AFC provider in the event of property damage caused by the client to the care provider's own property. Losses will be adjusted on an actual case value basis (replacement cost, less physical depreciation). Each loss will be subject to a \$2,000.00 deductible with the care provider responsible for the first \$300.00 of the deductible and the Department assuming the remaining \$1,700.00. AFC providers are to immediately notify the homefinder of any property damage caused by the client in excess of \$300.00, or any negligent act of a client that causes injury or damage to a person. When needed, the homefinder may assist the AFC provider with completing the appropriate claim form ([Form #RMI-3](#)) and describing the losses incurred or damage and file with the Board [of Risk and Insurance Management \(BRIM\)](#).

When a homefinder is informed of a loss suffered by an AFC provider, the following procedures apply:

- The provider and/or the homefinder complete the claim form ([Insurance Loss Notice Form #RMI-3](#)). The form is used to report general liability losses (negligent acts for the client that cause injury or damage to persons other than the provider). It is also used to report property damage caused by the client to the provider's own property.
- The completed form must be co-signed by the Community Service Manager (CSM) or designee.
- Submit the completed form to the Director, Division of Assets and Project Management (Building 3, Room 232, Capitol Complex, Charleston WV 25305).
- Retain a copy of the completed form in the client's record and the provider's record
- Send a copy of the completed form to the Commissioner of the Bureau for Social Services; and,
- Upon receipt of the necessary information by the Division of Assets and Project Management, an insurance adjuster will complete their investigation directly with the care provider
- Private pay clients would not be covered under the Department's insurance.

### **3.12 West Virginia Business License and Taxes**

The [West Virginia Department of Tax and Revenue](#) details AFC home providers are required to register with the state to do business and pay business registration tax if they have a gross income of more than \$4,000.00 for income purposes during the preceding tax year. The AFC provider is required to register and pay the Business Registration Tax if they had gross income of more than \$4,000.00 for income tax purposes during the provider's personal income tax year immediately preceding the registration period. (For further information regarding WV Business License, it is recommended that the provider contact the [West Virginia Tax Department](#)).

Payments received from the Department for the support of an adult in an AFC home are not included in the gross income of the provider for income tax purposes except to the extent that the payments exceed the expense incurred by the provider in supporting the adult. If the payments to the provider do not exceed the expenses incurred, the provider is not required to report the transaction on his income tax return. It is the provider's responsibility to maintain sufficient records of income and

expenses to make this determination and it is suggested that providers develop a system of record keeping which would document income expenditures.

For AFC providers who are also ESC providers, the monthly subsidy amount paid to ensure the availability to the emergency shelter care beds is considered taxable since it is not tied to a specific client. Conversely, the daily boarding and care rate paid for a client placed in the ESC home is not considered taxable income to the extent that it does not exceed actual expenses. (For further information regarding income taxes, it is recommended the provider contact their tax preparers, the [Internal Revenue Service](#) and/or the [West Virginia Tax Department](#)).

### **3.13 Approval Process for the AFC Provider**

The AFC home approval is based on the evaluation of the homefinder and review by the home finding supervisor.

#### ***Written Notification of Decision on Application***

- Written notification of the decision of an application must be prepared by the homefinder and sent to the applicant within five (5) working days from the date of the decision.
- If the application is denied, the homefinder must send the Negative Action Letter stating the reason(s) for the denial, within five (5) working days
- If the application is approved, the AFC approval letter and certificate of approval must be sent to the applicant.
- The homefinder must explain the Agreement for Participation and secure the required signatures.
- The homefinder must explain the EFT and FACTS Plus option to the provider. Additional Information can be found at the [WV Auditor's website](#) and [FACTS](#).

### **3.14 Combination AFC/ESC Homes**

“Combination” ESC/AFC Homes may be approved with the following stipulations:

An existing AFC provider would be eligible to participate as a ‘combination; home after they have provided services for six (6) months and demonstrated the ability to care for clients. A combination home must have a separate room for the ESC client to accommodate placements of either sex. An exception is permitted if the provider has both a male and a female AFC client already housed in separate rooms, each of the rooms must be large enough to accommodate another person of the same sex.

- The total number of clients in the home cannot exceed three (3) at any one time.
- The monthly stipend applies only to the ESC beds and does not apply to AFC beds, and
- The placement cannot be disruptive to clients already residing in AFC.
- The homefinder must carefully evaluate the capacity of the AFC home provider for
- assuming the additional responsibility of also providing ESC.

## **Section 4 Case Management**

### **4.1 Introduction**

Once an individual has been approved as an AFC provider, various case management activities are required of the homefinder. The requirements may include Identification of available homes based on the client characteristics, monitoring of the placement, follow-up on complaints related to compliance

with program standards, providing and/or arranging needed training and completion of annual provider reviews.

## **4.2 Training Requirements**

An AFC provider is required to have, at least, six (6) hours of face-to-face in-service training prior to accepting clients in their home; although, three (3) hours of this may be completed during the home study process. Annually thereafter, the training requirement is no less than eight (8) hours, requiring four (4) hours to be completed face-to-face with the homefinder. The homefinder is responsible for the development and implementation of the on-going training.

Suggested topics for in-service face-to-face training:

- Program Guidelines.
- Homes and prospective clients.
- Legal rights and responsibilities of the client and provider (provider liability, provider's taxes, responsibilities of the agency)
- Role of the provider in interdisciplinary team (IDT) approach.
- Utilization of Department Resources.
- Utilization of Community Resources.
- Overview of human needs (resident and provider: motivation, sexuality, communications, etc.)
- Crisis intervention overview
- Record Keeping; and,
- Confidentiality

Suggested topics for detailed pre-service and on-going training include:

- Crisis intervention-detailed techniques for dealing with persons experiencing emotional turmoil such as depression, anxiety and general fear of placement.
- Behavior management.
- Basic First Aid
- CPR
- Nutrition including meal planning and budgeting
- Characteristics of aging and information about special handicaps
- Medication including prescriptions and over the counter (OTC) medications including the importance, side effects and interactions between the two types.
- Effects of being institutionalized.
- Signs of abuse and neglect and mandatory reporting.
- End of life,
- Safety in the home,
- Basic health care,
- Medication,
- Fire prevention and safety
- Client activities including recreational and therapeutic activities,
- Sanitation,
- Utilizing community resources,
- Use of volunteers,
- Topics to address specific needs/concerns and/or changes in policy/procedures,
- Topics of interest to the Department and/or AFC providers.

Respite providers are required to receive the abuse and neglect training prior to providing care. AFC providers may receive a training allowance. The training allowance cannot be pro-rated. Also, this demand payment type is not to be used for required training materials. Instead, the “other demand payment” type is to be used. Respite providers are not eligible for the training incentive payment.

### **4.3 Respite Care**

Respite care can be arranged with an advance five (5) day notice to provide temporary care to AFC clients to offer short term relief to the regular AFC provider. The purpose is to allow the full-time providers to have planned times for vacations, other activities and to provide emergency care in event of illness of the provider or a provider’s family member. Although providers are encouraged to take their residents with them on vacations, it is also recognized that sometimes families may need to spend some time by themselves. An AFC provider is entitled to use up to fourteen (14) nights of respite care per calendar year. Additional respite care can be approved for emergency situations with an approved policy exception. Respite is determined within the calendar year from January 1 through December 31 of each year. During these fourteen (14) nights, the AFC provider will continue to receive the regular AFC payment uninterrupted. Although, at no time can an adult family care provider household member be a paid respite provider.

#### ***Approval as a Respite Provider***

When a request is received to become a respite provider, a Request to Provide Service intake must be completed. The homefinder will approve a respite provider to provide care in their home after a determination the home and all other adult family care standards have been met. If the provider is going to provide respite in the AFC provider’s home or their home, all standards set forth for respite providers must be met. No standards for respite care or respite providers may be waived by the home finding staff. Although, the homefinder may submit a waiver to the home finding supervisor and requires approval by Regional Administration.

#### ***Determining the Need and Planning for Paid Respite Care***

All paid respite is to be planned and approved by the worker in advance, except of an emergency involving the provider or a member of the provider’s household. When respite is needed in an emergency, verbal approval of the homefinder must be obtained prior to placement of the client.

Prior to payment for respite care, the respite provider must submit a written signed and dated statement or invoice, verifying dates, name of the respite provider and the regular AFC provider’s name. Upon receipt of this written statement, the adult service worker is to request a demand payment for the appropriate amount. In the event respite care would continue beyond the allowed fourteen (14) nights, the worker should determine if an approved policy exception has been approved for continued respite. If a policy exception has been approved for additional respite continue to enter payment, if there is no approved policy exception the adult service worker to discontinue respite payment for payment beyond fourteen (14) nights. The respite provider will receive the same per diem rate as the regular AFC provider.

#### ***Currently Approved AFC/ESC Provider Will Furnish Respite in their AFC Home***

Prior to provision of the respite, the respite provider must become familiar with the client(s) they will be providing care (medications, allergies, primary physician, dietary requirements, legal representatives, etc.) The following criteria is required prior to providing respite care:

- Must be active AFC/ESC provider with current certification; and,
- The home may not exceed the total number of clients the home is approved,

- including the respite client (IE AFC home is approved for three (3) clients.
- There are currently two (2) AFC clients in placement in the AFC home.
- The AFC provider could furnish respite to only 1 (one) additional client.

### ***Unpaid Respite***

Respite that is not reimbursed by the Department (unpaid respite) must be addressed on the Service Plan and approved in advance by the worker. Through the Department is not making payment in these instances, only approved respite providers may furnish respite care. Unpaid respite may be provided by an adult household member, age eighteen (18) or older.

- Written Notification of Decision on Application for Respite Providers
- Written notification of the decision must be prepared by the homefinder and sent to the applicant within five (5) working days from the date of decision.
- If the application is denied, the homefinder must send the Negative Action Letter (SS-13 form) within five (5) working days advising the applicant of the denial, stating the reason(s) for the denial. The Negative Action Letter serves as written notification of the grievance procedures which is available to the applicant.
- If the application is approved, Notification of Application for Social Services must be sent to the applicant.

## **4.4 Adult Protective Services and Adult Family Care Homes**

The Department has a dual responsibility when supervising the care provided in AFC homes. For this reason, a clear distinction must be made between abuse and neglect, and compliance issues related to certification as an AFC Provider. Abuse and neglect allegations are investigated by Adult Protective Services (APS), while issues related to compliance with AFC standards are addressed by the homefinder. The AFC Program policy requires that the homes meet specified standards to ensure that quality care is provided. The APS law addresses those situations in which there are allegations of abuse and neglect in an AFC home. [WV Code 61-2-29](#) specifically addresses potential penalties if a caregiver that has abused or neglected an incapacitated adult or elderly person.

- Any person, caregiver, guardian or custodian who neglects an incapacitated adult or elder person or who knowingly permits another person to neglect said adult, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred dollars and not more than fifteen hundred dollars, or imprisoned in the county or regional jail for not less than ninety days nor more than one year, or both fined and imprisoned and.
- Any person, caregiver, guardian or custodian who intentionally abuses or neglects an incapacitated adult or elder person is guilty of a felony and, upon conviction thereof, shall, in the discretion of the court, be confined in a state correctional facility for not than two years and not more than ten years.
- Abuse, neglect or creation of an emergency situation involving an incapacitated adult requires investigation and intervention by APS. Indications of potential abuse or neglect will not be ignored by AFC homefinder and will be addressed with the provider. Also, in such situations a referral to APS is required.
- Immediate action is required, if necessary, to protect the client's safety. In addition, if abuse or neglect of an incapacitated adult by any household member is substantiated, and the perpetrator remains in the home, the client(s) must be removed from the home. Court action may be required if the client refuses to leave or if a provider refuses to allow the client to leave. If removal of one client is deemed necessary all AFC clients in that home are to be removed, until an investigation can be completed.

#### **4.5 Use of Volunteers**

It is recognized the value of volunteers to the AFC Program; however, if there will be unsupervised contact for more than two (2) hours, the following guidelines are required:

- CIB Check and Review
- Completion of a record check in FACTS to verify that there is no APS/CPS history.
- Check of the Nurse's Aide Abuse Registry (OHFLAC) to ensure that there is no history of abuse or neglect while employed as a CNA.
- Interview by the Department's homefinder; and,
- Approval by the Department

#### **4.6 Adult Residential Services Corrective Action Letter**

All homes determined to be deficient are to be notified in writing of all deficient areas and what changes are required to bring the home back into compliance with agency standards. AFC/ESC Corrective Action Letter must be sent to the provider within seven (7) calendar days of the completion of the review or the conclusion of the non-compliance investigation to notify the provider of deficiencies found.

The provider will be required to submit a Corrective Action Plan within fifteen (15) days. The homefinder will work with the AFC provider to determine that the non-compliance issues have been corrected within thirty (30) days.

Additional time beyond the (30) day time frame requires a policy exception. If the required changes have not been made within the time the provider is to be notified in writing advising them of the Department's Intention to close the home using the Negative Action Letter. The homefinder must also notify the adult service worker that the AFC provider is going to be closed so any clients currently in the provider's home/care can be moved. Clients are not to be placed with the AFC provider once the provider is closed.

#### **4.7 Record Keeping by Provider**

Upon placement, the client in the home or shortly thereafter, information about the client and their needs are to be given to the provider by the adult service worker. The provider must establish a file for each individual placed in their home and maintain all information about the client for reference, as needed.

Information to be retained by provider:

- Identifying information
- Information about significant others such as family members, friends, legal representatives etc.
- Information about client's interest, hobbies, church affiliations.
- Medical status including current medications, prescriptions, limitations, attending physicians, hospital preference, allergies, special diet, etc.
- Advance directives,
- Information about client's burial wishes, plans and resources,
- Completed Resident Agreement for Participation,
- Completed Payment Agreements,;
- Completed Service Plan,
- Pand

- Any information related to the client is to be maintained in the provider's client file.
- This information must be maintained in a confidential manner. This includes information provided by the adult service worker or home finder and any information from other sources.

Any time a client is missing from an AFC home, the provider must immediately contact the West Virginia State Police and supply them with all necessary information including a recent photograph.

#### **4.8 Exceptions to Policy**

In certain circumstances, exceptions to AFC policy must be requested. Exceptions will be considered on an individual basis and only in circumstances sufficiently unusual to justify an exception. However, exceptions must ONLY be requested after all other resources have been exhausted. Request may be submitted in accordance with the following procedure:

The homefinder is to submit a policy exception to their immediate supervisor and shall include reference to the policy in questions, the information supporting the request, time period the exception is requested and what other resources have been explored or exhausted.

The Waiver Request Team consisting of the Homefinder, Home finding Supervisor, Adult Service Consultants and Regional Program Manager (if available) will make a decision on whether to approve or deny the policy waiver request.

The approval is sent to the homefinder in writing; however, in an emergency, the request may be completed verbally. The worker will then complete the required documentation within FACTS on the next business day and the supervisor must approve the request within five (5) working days following verbal approval.

#### **4.9 Relocation of AFC Provider**

When an AFC provider moves between regions or relocates to a new residence within the same region, the provider is to notify the homefinder of their intention to relocate prior to the move taking place. A home study of the new residence does not meet the requirements as outlined in this policy; the provider must be closed.

When relocation is between counties, the provider and client records must be transferred to the county of residence. When a case must be transferred, this must be a planned effort with close coordination, between the sending homefinder and the receiving homefinder. The homefinder must notify the social service worker of the provider's plans to relocate to allow action to be taken on the client's case.

#### ***Sending Region/Districts Responsibilities***

When it is necessary to transfer an AFC provider and any associated client case(s) from one region/district to another, the sending region/district is responsible for:

- Prior to a transfer the supervisor in the sending region/district must call the supervisor in the receiving region/district to provide notification the provider/client(s) is being transferred to the region/district, request assistance and/or provide pertinent information.
- Complete all applicable case documentation prior to case transfer,
- Immediately upon transfer to the provider(s) to the receiving region/district, send the updated provider(s) and the client's record to the receiving region/district,

- Notify the Department Family Support staff, the Social Security Administration office and all other appropriate agencies of the provider's change of address.
- Make arrangements for transfer of all medications, personal belongings, clothing, etc. are moved with the client; and,
- Ensure that the client will continue to receive medical care either through the physician in the sending region/district or by a physician in the receiving region/district.

### ***Receiving Region/District Responsibilities***

The receiving region/district is responsible for:

- Be involved in preparing for the transfer
- Notify the Department Family Support staff of the provider's arrival when the transfer is complete.
- Do home visit and complete all applicable documentation (i.e., Fire Safety Checklist, Sanitation Report, Fire Safety and other applicable sections of the Home Study).
- Assist the provider with the adjustment to the new community and assist or initiate any needed community resources.

## **4.10 Confidentiality**

Legal provisions concerning confidentiality have been established on both the state and federal levels. In Federal Law, provisions are contained in the Social Security Act. On the state level, provisions related to confidentiality of provider information can be found in Chapter 200 of [The Common Chapters](#).

Refer to [Adult Services Legal Requirements and Processes](#), Section 4 for additional information pertaining to confidentiality and when to release information.

## **Section 5 Case Review**

### **5.1 Annual Review**

The homefinder must complete a review of an AFC and respite provider at least annually. The review requires at least one (1) face to face interview in the home with the provider.

The review must include:

- Changes in family composition.
- Changes in financial resources.
- Changes in the health of the provider or their family members,
- Provider's description of being an Adult Family Care Provider
- Client's adjustment to the AFC home.
- Provider's ability to adequately care for the client's needs.
- Provider's cooperation with the Department.
- Complaints received regarding the home.
- Changes in location of the home.
- Expectations and requirements of a provider – review of Provider Agreement for Participation.
- A discussion of EFT and FACTS Plus, if the provider is not participating in EFT
- Goals for the upcoming year.
- Recommendations for continued use,

- Physician's Letter, a medical statement is required every three (3) years, although, the homefinder can request an updated medical statement if circumstances warrant. If the provider does not have insurance or sufficient resources to cover the statement, this can be paid by demand payment at Medicaid rates.
- Annual Sanitation Review
- Annual Fire and Safety Review
- Updated forms required due to changes in circumstances (CIB, medicals on new household members, etc.).
- A record check in FACTS of APS/CPS history for all household members over the age of eighteen (18), and,
- The status screen must be updated to reflect the homefinders recommendation for the continued use of this home.
- Notification of AFC provider review
- If the provider is going to be certified for an additional year, notification must be sent using the AFC Recertification Letter, and a new certificate sent to the provider. If the provider is not going to be certified to continue providing care, the form letter Notification of Application for Social Services is to be used.

## **5.2 Conflict of Interest**

To avoid any conflict of interest and ensure optimal client services, the Adult Service worker must inform their supervisor immediately upon discovering that a friend, relative, or former co-worker, and anyone with close ties to the worker has been assigned to him/her for investigation or as an ongoing case. Upon this disclosure, the supervisor has the discretion to transfer the case to another worker (and in some instances to another county) and restrict the case for limited access. The supervisor will then be responsible for informing their Social Service Coordinator and/or Community Service Manager of this issue. In addition, Adult Service workers should not solicit or accept any monetary gain for their services to the client other than their salary and benefits paid by the Department.

## **Section 6 Payments**

### **6.1 Payment by the Bureau for Social Services**

Providers of AFC services may receive reimbursement from the Department by automatic payment and demand payments. Reimbursement to the provider for the care and supervision furnished to the client will be done by automatic payment. Demand payments are available for a limited and specific set of expenses that may occur in the AFC setting.

If an overpayment is received by the provider, the provider must be notified in writing of any overpayment including amounts and months the overpayment occurred. If the overpayment is client specific, the adult service worker must pursue repayment. If the overpayment is provider specific, the repayment must be pursued by the homefinder. The provider must negotiate an agreement to repay either in one lump sum payment or monthly payments. The time frame for the repayment will usually be within thirty (30) days; however, additional time may be granted.

After reasonable attempts have been attempted, if the provider does not agree to repay or defaults on monthly payments a Corrective Action Plan is required. The worker that negotiated the repayment

agreement will work collaboratively with the homefinder to complete the Correction Action Plan and/or closure of the home.

## **6.2 Payment Agreement**

The AFC Payment agreement details the rate of pay the provider will receive for care provided. The contract provides both a monthly rate and a daily rate utilizing a variety of sources including the client's income, asset's adult services worker. The payment agreement is to be reviewed at each review or any time there is a change in the clients and debts and expenses. The agreement also outlines the amount of personal expense allowance the client is permitted to retain from their total income. The Payment Agreement is completed within the Adult Residential Case by the client's adult services worker. The payment agreement is to be reviewed at each review or any time there is a change in the client's financial circumstances and a new payment contract is to be completed annually.

## **6.3 Personal Expense Allowance**

The personal expense allowance is the amount a client placed in an AFC home is permitted to retain from total income to meet their personal expenses. Each AFC client shall receive the full personal expense allowance amount each month or have this amount readily available for their use unless the client was placed less than the full month. In this situation, the personal expense allowance is to be pro-rated. When the client moves from one provider to another provider in the middle of the month, any personal expense allowance remaining must be given either to the client or the new provider.

Whenever the provider has responsibility for managing the client's funds (IE representative payee or handling the client's personal expense allowance) the provider must maintain a record of funds received and expenditures made on the client's behalf.

The personal expense allowance can be utilized to purchase any item(s) they choose so long as the purchases do not conflict with established house rules or regulations. The personal expense allowance shall not be used to obtain necessities such as food, clothing, shelter cost, medications, transportation or medical care.

## **6.4 Demand Payments**

The demand payment process may be used to request reimbursement incurred on behalf of clients placed in an AFC home by the Department or for specific expenses incurred by the AFC provider. Payments that are made on behalf of a specific client (IE Co-pays, durable medical, etc.) are to be entered by the adult service worker utilizing the Adult Residential Services policy. Payments to the provider that are not client specific (IE training incentive payments) are to be entered by the homefinder.

Reimbursement by the Department may only be considered after it has been determined by the client's adult service worker that there are no other personal or community resources that can meet this need.

A demand payment may be handled in one of two ways 1) The AFC provider pays the costs on the client's behalf and submits all corresponding receipts to request reimbursement or 2) The vendor of service provides the equipment/supplies and submits an invoice to the Department requesting payment.

## **6.5 Bed Hold**

The AFC provider may continue to receive uninterrupted payments for a medical and/or social bed hold period. A Medical bed hold is permitted for up to fourteen (14) days or until it is determined the client will not be returning to the AFC Home. A social bed hold will allow an AFC client to be absent from the AFC home for up to fourteen (14) days per calendar year for social activities that may include visiting natural family, specialized camps, overnight trips and/or visiting friends. These are different bed holds and the client is eligible for each bed hold in a calendar year.

## **6.6 Respite Care**

An AFC provider is entitled to use up to fourteen (14) nights of respite care per calendar year with additional respite days for emergencies with an approved policy exception. During these fourteen (14) nights the provider will continue to receive the regular AFC payment uninterrupted. The client's adult services worker is responsible for entering a demand payment after the respite provider has submitted an invoice.

## **6.7 Trial Visit**

If a client who is currently an active adult service client is planning to move to another home or a different type of setting, a trial placement is recommended to assure a good match between the prospective provider and the client. IF an overnight stay is planned as part of a trial visit, the Department may reimburse the prospective provider. The current provider will continue to receive payment, with the trial visit provider being paid for the number of nights for the trial visit. Payment to the provider and reimbursement made by the Department for a trial visit is to be at the current daily rate for the type of provider involved in the trial visit. If the client is being discharged from an institution setting or coming from the community and not an active AS client at the time of the trial visit, the client must be encouraged to use their resources to make payment to the prospective provider. If it is determined that the client does not have resources to pay for the trial visit the client's adult services worker is to request that payment to the provider and reimbursement made by the Department for a trial visit is to be at current daily rate for the type of provider utilized for trial visit.

## **6.8 Payment Adjustment**

This demand payment type is to be used for correcting an underpayment to an AFC provider. As an example, an under payment may occur when the adult services worker is unable to complete the placement process, including all applicable documentation in FACTS, prior to the deadline for entering payment/placement information. A payment adjustment may be requested to reimburse the prover for any unpaid portion due utilizing the Adult Family Care/Emergency Shelter Care Corrections payment type.

## **6.9 Specialized Family Care Payment**

This demand payment type applies only to payments made to existing Specialized Adult Family Care Providers. The rate of payment for this type of provider is different from the rate of payment for a regular AFC home, therefore, this demand payment type is only to be used to reimburse Specialized AFC providers for the balance of payment due each month.

## **6.10 Clothing Allowance**

A clothing allowance is available for clients who are placed in a residential setting (i.e., AFC or Assisted Living) by the Department and for whom the Department is making a supplemental payment. Individuals who are in the home for whom the Department is not making a supplemental payment are not eligible for clothing allowance.

## **6.11 Educational Expenses for Special Education**

Clients who are enrolled in a special educational program may incur costs associated with their educational program. For the Department to reimburse the provider for these costs, the client must be enrolled at a full-time basis in an educational program. In addition, the cost for which reimbursement is requested must not be reimbursable by any other source and must be related to enhancing or completing their educational program. Examples of costs that may be reimbursable include graduation fees and reasonable special fees for school trips/functions. The reimbursement is the responsibility of the client's adult service worker.

## **6.12 Annual Client Medical Evaluation**

Each client placed by the Department in an AFC home must receive an annual medical examination. The AFC provider is to arrange for this examination to be completed. If reimbursement to the provider is required and not covered under Medicare, Medicaid or private insurance; the AFC client's social worker must first approve the expense prior to incurring the expense.

## **6.13 Co-Payment on Prescription Medications**

The cost required for medication co-payments may be reimbursed for adults who have been placed in an AFC home by the Department and for whom the department is making a supplemental payment. In addition, the medications to which the co-payment applies and for which payment is requested must:

- Be prescribed by the adult's physician
- Be identified on the medications screen in FACTS
- Meet an identified need on the adult service plan; and,
- Be necessary to prevent the need for a higher level of care.

## **6.14 Provider Training Incentive Payment**

AFC Providers who are currently receiving a supplemental payment for a client(s) placed in their home by the department are entitled to receive reimbursement for approved training they receive; respite providers are not eligible for the training incentive payment. This reimbursement is offered as an incentive to encourage providers to participate in relevant training opportunities to enhance their skills and knowledge as an AFC Provider.

Training that would be acceptable in order to qualify for this payment would include training provided by the department or training that is furnished by another entity that has been approved, in advance, by the Department Policy Staff and/or AS Consultants.

The provider may request payment of the training allowance by the Department. Verification of attendance of the approved training must be submitted and the time reimbursement is being requested. Without verification of training attendance, payment shall not be made. Upon receipt of

the required verification of attendance of approved training, the homefinder may then prepare a request for a demand payment in the amount of \$25.00.

### **6.15 Provider Medical Report**

After an AFC home is approved, the person(s) in the household who is primary responsible for furnishing care to the clients placed in the home is required to a medical evaluation completed at a minimum of every three (3) years; however, the homefinder has the flexibility of requesting an updated medical prior to the expiration of the three (3) year time frame, if they question the provider's ability to care for the incapacitated adult(s). The purpose of the medical evaluation is to ensure that the person(S) who has responsibility for providing care remains in good health and able to provide the necessary care and support to adults placed in their home.

The provider is to arrange for completion of the medical report with their physician. When arranging for completion of this evaluation, providers are to be encouraged to request that their physician complete this evaluation during a regularly scheduled medical appointment, whenever possible.

If the provider has no other resources or insurance to pay for the medical report, they may request reimbursement from the Department for this expense. To request reimbursement, the provider must submit a receipt, along with the completed medical report to the homefinder and indicate reimbursement is being requested.

If the homefinder feels a medical statement is warranted for respite providers and/or request an updated medical statement, the respite provider may request reimbursement by the Department for this expense if the respite provider does not have sufficient resources or insurance to cover the cost.

If the homefinder has concerns with the provider's capacity to fulfill their duties, the homefinder may request that a psychological/physical evaluation be done on the provider. A demand payment may be requested for payment at current Medicaid rates.

### **6.16 Durable Medical Equipment and Supplies**

In certain situations, the cost of obtaining durable medical equipment or supplies may be reimbursed for clients who have been placed in AF by the department and for whom the Department is making a supplement payment. The responsibility of completing the demand payment is the client's adult services worker utilizing Adult Residential Services policy.

### **6.17 Non-Medicaid Covered Services**

Clients placed in AFC by the Department may, at times, incur expenses that are medically necessary but are not reimbursable by Medicaid. The responsibility of completing the demand payment is the client's assigned adult services worker utilizing the Adult Residential Services policy.

### **6.18 Food Supplements**

In unique situations, food supplements may be required by an adult placed by the department in an AFC home to maintain sound nutritional status. In certain situations, the cost of obtaining these food supplements may be reimbursed by the Department. The responsibility of completing the demand payment is the client's assigned adult services worker utilizing the Adult Residential Services Policy.

## **6.19 Over the Counter Medications/DESI Medications or RX not Covered**

In certain situations, medications may be required by a client placed by the Department in an AFC home that are not covered by Medicaid or other insurance. These include items such as over the counter medications, DESI medications or other prescription medications that are medically necessary but not covered by insurance. The cost of these medications may be reimbursed by the department. The responsibility of completing the demand payment is the client's assigned adult services worker utilizing the Adult Residential Services Policy.

## **6.20 Other Demand Payment – Not Specified**

In certain situations, the cost of obtaining needed supplies or services may be reimbursed for the provider or for clients who have been placed in an AFC home by the Department and for whom the Department is making a supplemental payment. For the department to reimburse the provider for these costs, the provider must submit a receipt for these costs incurred. The responsibility of completing the demand payment can be either the Adult Services worker utilizing the Adult Residential Services policy or the Homefinder utilizing the Adult Residential Services – Request to Provide policy.

## **Section 7 Case Closure**

### **7.1 General Information**

A final evaluation must be completed as part of the review process prior to closure of the provider home. Upon completion, the homefinder must document the results of this assessment, including the reason(s) closure is being recommended. The completed review is then submitted to the supervisor for approval of recommendation for closure. Upon supervisory approval, the provider is to be closed for AFC services.

### **7.2 Notification of Closure**

If the provider is closed for AFC services for any reason other than provider death, written notification to the provider is required. A form letter titled “Negative Action Letter” (SS-13) is to be used for this purpose.

### **7.3 Provider’s Right to Appeal**

A provider has the right to appeal a decision by the Department at any time for any reason. To request an appeal, the provider must complete the bottom portion of the “Negative Action Letter” (SS-13) and submit this to the supervisor within thirty (30) days following the date the action was taken by the Department.

The home finding supervisor is to schedule a pre-hearing conference to consider the issues. If the provider is dissatisfied with the decision rendered by the supervisor, the appeal and all related information is to be forwarded by the supervisor to the hearings officer for further review and consideration.

### **7.4 Grievances**

Dissatisfaction with and objections to the way the homefinder supervises the AFC home can usually be worked out between the provider and the homefinder. However, when that is not possible, it is important that the provider be aware of the grievance procedure for social services that is found in

Chapter 700 of the Common Chapters Manual. The homefinder must be familiar with the grievance procedure and be prepared to advise providers about how to file a grievance.

## **Section 8 Nondiscrimination, Procedure & Due Process Standards, Reasonable Modification Policies, and Confidentiality**

### **8.1 Nondiscrimination**

As a recipient of Federal financial assistance, the Bureau for Social Services (BSS) does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, color, national origin, disability, age, sex, sexual orientation, gender identity, religion or creed in admission to, participation in, or receipt of the services and benefits under any of its programs and activities, whether carried out by BCF directly or through a contractor or any other entity with which BSS arranges to carry out its programs and activities.

This statement is in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (nondiscrimination on the basis of race, color, national origin) ("Title VI"), Section 504 of the Rehabilitation Act of 1973 (nondiscrimination on the basis of disability) ("Section 504"), the Age Discrimination Act of 1975 (nondiscrimination on the basis of age) ("Age Act"), regulations of the U.S. Department of Health and Human Services issued pursuant to these three statutes at Title 45 Code of Federal Regulations Parts 80, 84, and 91.

The Bureau for Social Services shall not retaliate against, intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Section 504 or the Age Act, or because she or he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

In addition, BSS will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all BSS programs, services, and activities. For example, individuals with service animals are welcomed in the Department of Health and Human Resources, BSS, offices even where pets are generally prohibited.

In case of questions, or to request an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a BSS program, service, or activity, please contact:

Children and Adult Services  
Section 504/ADA Coordinator  
350 Capitol St. Rm 691  
Charleston, WV 25301  
(304) 558-7980

### **8.2 Non-Discriminatory Placement Protocol**

The Department ensures that all parties involved in adult welfare programs have equal opportunities. All potential placement providers for vulnerable adults, are afforded equal opportunities, free from discrimination and protected under the [American's with Disabilities Act](#) (ADA). The Department will

not deny a potential placement provider the benefit of its services, programs, or activities due to a disability.

Under the Americans with Disabilities Act it defines a person with a disability as:

“An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.”

The ADA does not specifically name all the impairments that are covered. The ADA does not allow a person to be discriminated against due to a disability in employment, state and local government activities, public transportation accommodations, telecommunication relay services, fair housing, air carrier access, voting accessibility or education. Examples of disabilities include physical disabilities which require auxiliary aids and mental health issues. Those persons with substance use disorders, including opioid use disorder, currently participating in a treatment option such as Medication Assisted Treatment (MAT), are also covered by the ADA. Participation in a MAT program is not considered the illegal use of drugs. Qualifying MAT programs are defined in [W. Va. Code §16-5Y-1](#), *et seq.* The ADA also addresses the civil rights of institutionalized people and architectural barriers that impact people with disabilities.

When making diligent efforts to locate and secure appropriate placement for vulnerable adults, a worker cannot discriminate against a potential placement based upon a person with a disability according to the Americans with Disabilities Act (ADA) Title II. The Department shall determine if the potential placement for the vulnerable adult represents a direct threat to the safety of the adult. Safety threat decisions will be based on assessment of the individual and the needs of the vulnerable adult, as the safety of the adult always remains at the forefront of the determination of the best interest of an adult, when placing a vulnerable adult in anyone’s home. This determination cannot be based on generalizations or stereotypes of individuals.

If a provider protected under the ADA is identified as an appropriate and best interest placement for a vulnerable adult they may, at some point, require services specific to their disability in order to preserve the placement. In such situations, consideration for services must be given if it is in the best interest of the adult to preserve the placement. Any specific auxiliary aids or services should be determined by the worker at no cost to the provider and should be considered on a case-by-case basis.

### **8.3 Complaint Procedure and Due Process Standards**

#### ***A: Complaints Based on Disability or other Forms of Discrimination***

It is the policy of the West Virginia Department of Health and Human Resources (DHHR), not to discriminate on the basis of on the basis of race, color, national origin, disability, age, sex, sexual orientation, gender identity, religion, or creed. DHHR has adopted an internal complaint procedure providing for prompt, equitable resolution of complaints alleging discrimination. Laws and Regulations, 28 C.F.R. Part 35 and 45 C.F.R. Part 84, may be examined by visiting <https://www.ada.gov/reg3a.html>. Additional laws and regulations protecting individuals from discrimination in adult welfare programs and activities may be examined by visiting the U.S Department of Health and Human Services website at <https://www.hhs.gov/civil-rights/for-individuals/special-topics/adoption/index.html>.

Any person who believes someone has been subjected to discrimination on the basis of race, color, national origin, disability, age, sex, sexual orientation, gender identity, religion, or creed may file a

complaint under this procedure. It is against the law for the Bureau for Social Services, including employees, contracted providers or other BSS representatives, to retaliate in any way against anyone who files a complaint or cooperates in the investigation of a complaint.

***Procedure***

Complaints due to alleged discriminatory actions must be submitted to the Department of Health and Human Resources, Equal Employment Opportunity (EEO)/Civil Rights Officer within sixty (60) calendar days of the date the person filing the complaint becomes aware of the alleged discriminatory action.

The complainant may make a complaint in person, by telephone, by mail, or by email. To file the complaint by mail or email, a Civil Rights Discrimination Complaint Form, IG-CR-3 (See Appendix A) must be completed and mailed or emailed to the West Virginia Department of Health and Human Resources, Office of Human Resources Management, EEO/Civil Rights Officer, One Davis Square, Suite 400, Charleston, WV 25301 or email at [DHRCivilRights@WV.Gov](mailto:DHRCivilRights@WV.Gov). If the complainant requires assistance completing the IG-CR-3 form, they may request assistance from the department. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought. The complainant may also contact the WV DHHR, EEO/Civil Rights Officer, for more information.

West Virginia Department of Health and Human Resources  
Office of Human Resource Management  
EEO/Civil Rights Officer  
(304) 558-3313 (voice)  
(304) 558-6051 (fax)  
[DHRCivilRights@WV.Gov](mailto:DHRCivilRights@WV.Gov) (email)

The EEO/Civil Rights Officer shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The EEO/Civil Rights Officer will maintain the files and records of Bureau for Social Services relating to such complaints. To the extent possible, and in accordance with applicable law, the EEO/Civil Rights Officer will take appropriate steps to preserve the confidentiality of files and records relating to complaints and will share them only with those who have a need to know.

The EEO/Civil Rights Officer shall issue a written decision on the complaint, based on the preponderance of the evidence, no later than thirty (30) calendar days after its filing, including a notice to the complainant of his or her right to pursue further administrative or legal remedies. If the EEO/Civil Rights Officer documents exigent circumstances requiring additional time to issue a decision, the EEO/Civil Rights Officer will notify the complainant and advise them of his or her right to pursue further administrative or legal remedies at that time while the decision is pending. The person filing the complaint may appeal the decision of the EEO/Civil Rights Officer by writing to the Director of Human Resources within fifteen (15) calendar days of receiving the EEO/Civil Rights Officer's decision. The Director of Human Resources shall issue a written decision in response to the appeal no later thirty (30) calendar days after its filing.

The person filing the complaint retains the right to file a grievance with the U.S. Department of Health and Human Services, Office for Civil Rights, regardless of the decision made by the West Virginia Department of Health and Human Resources.

The availability and use of this procedure does not prevent a person from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, disability, age, sex, sexual orientation, gender identity, religion or creed in court or with the US Department of Health and Human Services, Office for Civil Rights. A person can file a complaint of discrimination electronically through the Office for Civil Rights Complaint portal at: <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf> or by mail or by phone at:

U.S. Department of Health & Human Services  
Office for Civil Rights  
200 Independence Ave., S.W.  
Room 509F HHH Bldg.  
Washington, D.C. 20201  
800-368-1019 (voice) 800-537-7697 (TDD)  
OCRComplaint@hhs.gov

For complaints to the Office for Civil Rights, complaint forms are available at: <https://www.hhs.gov/ocr/complaints/index.html>. Complaints shall be filed within one hundred and eighty (180) calendar days of the date of the alleged discrimination.

The Bureau for Social Services will make appropriate arrangements to ensure that individuals with disabilities and individuals with Limited English Proficiency are provided auxiliary aids and services or language assistance services, respectively, if needed, to participate in this process. Such arrangements may include, but are not limited to, providing qualified interpreters, providing recorded material for individuals with low vision, or assuring a barrier-free location for the proceedings. The EEO/Civil Rights Officer will be responsible for such arrangements.

### ***B: Grievances Regarding the Adult Services Worker or Casework Process***

At any time that the Bureau for Social Services is involved with a client, the client, or the counsel for the vulnerable adult has a right to express a concern about the manner in which they are treated, including the services they are or are not permitted to receive.

Whenever a vulnerable adult or counsel for the vulnerable adult has a complaint about Adult Services or expresses dissatisfaction with Adult Services the worker will:

- Explain to the client the reasons for the action taken or the position of the BSS which may have resulted in the dissatisfaction of the client.
- If the situation cannot be resolved, explain to the client his/her right to a meeting with the supervisor.
- Assist in arranging for a meeting with the supervisor.

The supervisor will:

- Review all reports, records and documentation relevant to the situation.
- Determine whether all actions taken were within the boundaries of the law, policies and guidelines for practice.
- Meet with the client.
- If the problem cannot be resolved, provide the client with the form "Client and Provider Hearing Request", SS-28.

- Assist the client with completing the SS-28, if requested.
- Submit the form immediately to the Chairman, state board of Review, DHHR, Building 6, Capitol Complex, Charleston, WV 25305.

For more information on Grievance Procedures for Social Services please see Common Chapters Manual, Chapter 700, and Subpart B or see W.Va. Code §29A-5-1.

Note: Some issues such as the decisions of the Circuit Court cannot be addressed through the Grievance Process. Concerns about or dissatisfactions with the decisions of the Court including any approved Case plan must be addressed through the appropriate legal channels.

## **8.4 Reasonable Modification Policy**

### ***A: Purpose***

In accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (ADA), the Bureau for Social Services shall not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. The BSS shall make reasonable modifications in Adult Services program policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless BSS can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

### ***B: Policy***

DHHR is prohibited from establishing policies and practices that categorically limit or exclude qualified individuals with disabilities from participating in the BSS Adult Services program.

The Bureau for Social Services will not exclude any individual with a disability from the full and equal enjoyment of its services, programs, or activities, unless the individual poses a direct threat to the health or safety of themselves or others, that cannot be mitigated by reasonable modifications of policies, practices or procedures, or by the provision of auxiliary aids or services.

The Bureau for Social Services is prohibited from making Adult Services program application and retention decisions based on unfounded stereotypes about what individuals with disabilities can do, or how much assistance they may require. The BSS will conduct individualized assessments of qualified individuals with disabilities before making Adult Services application and retention decisions.

The Bureau for Social Services may ask for information necessary to determine whether an applicant or participant who has requested a reasonable modification has a disability-related need for the modification, when the individual's disability and need for the modification are not readily apparent or known. BSS will confidentially maintain the medical records or other health information of Adult Services program applicants and participants.

The Bureau for Social Services upon request, will make reasonable modifications for qualified Adult Service program applicants or participants with disabilities unless BSS can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. Individuals do not need to reference Section 504 or Title II or use terms of art such as “reasonable modification” in order to make a request. Further, BSS staff are obligated to offer such reasonable accommodations upon the identification of a qualifying disability or to an individual with Limited English Proficiency.

BSS must consider, on a case-by-case basis, individual requests for reasonable modifications in its Adult Services programs, including, but not limited to, requests for substitute caregivers, respite caregivers, more frequent support from a case worker, additional classroom and/or online training, mentorship with an experienced foster/adoptive parent, note takers, and other auxiliary aids and services. When auxiliary aids or language interpretation services to ensure effective communication for individuals with hearing, vision, speech impairments, or Limited English Proficiency (LEP) are needed, they shall be provided to the participant at no additional costs. DHHR evaluates individuals on a case-by-case basis to provide auxiliary aids and services as necessary to obtain effective communication. This would include but not be limited to:

- Services and devices such as qualified interpreters, assistive listening devices, note takers, and written materials for individuals with hearing impairments.
- And qualified readers, taped texts, and Brailled or large print materials for individuals with vision impairments.
- Access to language and interpretation services.

For more information on obtaining auxiliary aids, contact:

Center for Excellence in Disabilities (CED)  
959 Hartman Run Road  
Morgantown, WV 26505  
Phone: 304-293-4692.  
Toll Free: (888) 829-9426  
TTY: (800) 518- 1448

For language translation and interpretation services Adult Services may Contact 911 Interpreters or the Section 504/ADA Coordinator (see also section 11.5 Limited English Proficiency). To contact 911 Interpreters, utilize the information below:

911 Interpreters Inc.  
1-855-670-2500  
BSS Code: 25646

When requesting language translation services directly through 911 Interpreters, staff must report the accommodation to the Section 504/ADA Coordinator by completing the *Reasonable Accommodation Reporting Form*.

The Bureau for Social Services will not place a surcharge on a particular qualified individual with a disability or any group of qualified individuals with disabilities to cover the cost of measures, such as the provision of auxiliary aids and services or program accessibility, that are necessary to provide nondiscriminatory treatment required by Title II of the ADA and Section 504.

To address any violations of this Reasonable Modification Policy, consult the Bureau for Social Services Grievance Procedure. To request reasonable modifications, or if you have questions, please contact:

Children and Adult Services  
Section 504/ADA Coordinator  
350 Capitol St. Rm 691  
Charleston, WV 25301  
(304) 558-7980  
Revised July 2022

Staff who make reasonable accommodations for an individual must be reported to the Section 504/ADA Coordinator utilizing the *Reasonable Accommodation Reporting Form*.

## **8.5 Limited English Proficiency**

The Bureau for Social Services (BSS) will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits. The policy of BSS is to ensure meaningful communication with LEP clients and their authorized representatives involving their case. The policy also provides for communication of information contained in vital documents, including but not limited to, information release consents, service plans, etc. All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served, and clients and their families will be informed of the availability of such assistance free of charge. Language assistance will be provided through use of contracted vendors, technology, or telephonic interpretation services. All staff will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in the effective use of an interpreter and the effective use of technology including telephonic interpretation services. The Bureau for Social Services will conduct a regular review of the language access needs of our population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

### ***PROCEDURES:***

#### **1. IDENTIFYING LEP PERSONS AND THEIR LANGUAGE**

The Bureau for Social Services will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or “I speak cards,” available online at [www.lep.gov](http://www.lep.gov)) or posters to determine the language. In addition, when records are kept of past interactions with clients or family members, the language used to communicate with the LEP person will be included as part of the record.

#### **2. OBTAINING A QUALIFIED INTEPRETER**

911 Interpreters Inc. has agreed to provide qualified interpreter services. The agency’s telephone number is 1-855-670-2500 (BSS Code: 25646). Interpretation services are available 24 hours a day. Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and **after** the LEP person has understood that an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the person’s file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, BSS will provide qualified interpreter services to the LEP person free of charge. Children and other clients will **not** be used to interpret, in order to ensure confidentiality of information and accurate communication.

### 3. PROVIDING WRITTEN TRANSLATIONS

When translation of vital documents is needed, BSS will submit documents for translation to 911 Translators Inc. or the Section 504/ADA Coordinator. BSS will generally provide language services in accordance with the following guidelines:

(a) BSS will provide written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

(b) If there are fewer than 50 persons in a language group that reaches the five percent threshold in (a), BSS will not translate vital written materials but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

Additionally, when making a determination as to what languages services will be provided, BSS may consider the following factors: (1) the number and or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the grantee/recipient and costs.

Documents being submitted for translation will be in final, approved form with updated and accurate information. Staff who utilize 911 Translators must report the utilization using the *Reasonable Modification Reporting Form* to the Section 504/ADA Coordinator.

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### 4. PROVIDING NOTICE TO LEP PERSONS

The Bureau for Social Services will inform LEP persons of the availability of language assistance, free of charge, by providing written notice in languages LEP persons will understand. At a minimum, notices and signs will be posted and provided in DHHR office lobbies and waiting areas. Notification will also be provided through one or more of the following: outreach documents and program brochures.

### 5. MONITORING LANGUAGE NEEDS AND IMPLEMENTATION

On an ongoing basis, BSS will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, BSS will regularly assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP persons, feedback from clients and community organizations, etc.

## **Appendix A WVDHHR Civil Rights Discrimination Form**



## West Virginia Department of Health and Human Resources Civil Rights Discrimination Complaint Form

<b>Complainant First Name</b>		<b>Complainant Last Name</b>	
<b>Home Phone</b> <i>(include area code)</i>		<b>Work Phone</b> <i>(include area code)</i>	
<b>Street Address</b>		<b>City</b>	
<b>State</b>	<b>Zip Code</b>	<b>Email</b> <i>(if available)</i>	

Is this complaint being completed by someone other than the complainant?  Yes  No

If yes, please provide your information below:

<b>First Name</b>	<b>Last Name</b>	<b>Telephone Number</b> <i>(include area code)</i>
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The complainant feels they have been discriminated against on the basis of:

- Race/Color/National Origin   
  Religion/Creed   
  Sexual Orientation/Gender Identity  
 Disability   
  Age   
  Sex

Other *(please specify):*

Who or what bureau within the West Virginia Department of Health and Human Resources is believed to have been discriminatory?

<b>Name/Bureau/Office</b>		
<b>Street Address</b>	<b>City</b>	<b>County</b>
<b>Zip Code</b>	<b>Telephone</b>	

Date(s) discriminatory action is believed to have occurred:

Which program(s) is the complainant alleging the discriminatory action took place in?

- Child Welfare *(includes CPS, Youth Services, Foster Care, Adoption, Homefinding, and Legal Guardianship)*   
  Adult Welfare *(includes APS, Guardianship, Health Care Surrogate, Residential Services Request to Receive and Request to Provide)*   
  Low Income Energy Assistance Program (LIEAP)  
 Temporary Assistance for Needy Families (TANF)   
  School Clothing Voucher   
  Indigent Burial

*Complaints involving the Supplemental Nutrition Assistance Program (SNAP) must be sent directly to the U.S. Department of Agriculture. See below for more information.*

**Describe briefly what happened. How and why does the complainant believe they have been discriminated against? What is the relief or remedy sought by the complainant?**

***(Attach additional pages as needed.)***

**Please sign and date this form. If submitting by email, you may type your name and date. Your email will represent your signature.**

Signature	Date (mm/dd/yyyy)
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The West Virginia Department of Health and Human Resources shall not retaliate against, intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Section 504 or the Age Act, or because she or he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

EEO/Civil Rights Officer shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. EEO/Civil Rights Officer will maintain the files and records of DHHR relating to such grievances. The EEO/Civil Rights Officer shall issue a written decision on the complaint no later than thirty (30) calendar days after its filing, unless the Coordinator documents exigent circumstances requiring additional time to issue a decision. To submit this complaint or request additional information, please contact:

West Virginia Department of Health and Human Resources  
Office of Human Resource Management  
EEO/Civil Rights Officer  
(304) 558-3313 (voice)  
(304) 558-6051 (fax)  
[DHHRCivilRights@WV.Gov](mailto:DHHRCivilRights@WV.Gov) (email)

The person filing the grievance retains the right to file a grievance with the U.S. Department of Health and Human Services, Office for Civil Rights, regardless of the decision made by the West Virginia Department of Health and Human Resources. The availability and use of this grievance procedure does not prevent a person from filing a private lawsuit in Federal court or a complaint of discrimination on the basis of being a member of a protected class, with the:

U.S. Department of Health & Human Services  
200 Independence Ave., S.W.  
Room 509F HHS Bldg.  
Washington, D.C. 20201  
800-368-1019 (voice)  
202-619-3818 (fax)  
800-537-7697 (TDD)  
[OCRComplaint@hhs.gov](mailto:OCRComplaint@hhs.gov) (email)

The complaint form may be found at <https://www.hhs.gov/ocr/complaints/index.html>

*For SNAP complaints, please contact the U.S. Department of Agriculture.*

*The USDA Program Discrimination Complaint Form, can be found online at: <https://www.ocio.usda.gov/document/ad-3027>, or at any USDA office. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form by mail, email, or fax to: U.S. Department of Agriculture*

*Office of the Assistant Secretary for Civil Rights*  
*1400 Independence Avenue, SW Washington, D.C. 20250-9410*  
*(202) 690-7442 (fax)*  
*(866) 632-9992 (telephone)*  
[program.intake@usda.gov](mailto:program.intake@usda.gov) (email)

# Appendix B WVDHHR Office of Social Services Client/Provider Grievance Form

I, \_\_\_\_\_, wish to file a grievance with the West Virginia Department of Health and Human Resources, Office of Social Services.

I am dissatisfied for the following reasons:

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I understand this form will be forwarded to the State Office, Chairman, Board of Review. A Grievance Hearing will be scheduled by a State Hearing Officer.

Signature of Client/Provider \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

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Signature of Worker \_\_\_\_\_

Date \_\_\_\_\_

Signature of Supervisor \_\_\_\_\_

Date \_\_\_\_\_

Orig: Chairman, State Board of Review

CC: Case Record  
Client/Provider

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